

Cause No. 94-6-12769

LOU ANN MORRIS, et al.,

S IN THE DISTRICT COURT

Plaintiffs,

v.

FORMOSA PLASTICS CORPORATION,
TEXAS; FORMOSA PLASTICS
CORPORATION, AMERICA; FORMOSA
PLASTICS CORPORATION, U.S.A.;
FORMOSA PLASTICS DEVELOPMENT
CORPORATION; NAN YA PLASTICS
CORPORATION, AMERICA; NAN YA
PLASTICS CORPORATION, U.S.A.;
FORMOSA UTILITY VENTURE, LTD.;
FORMOSA HYDROCARBONS COMPANY,
INC.; FORMOSA CHEMICALS & FIBRE
CORPORATION, AMERICA; JAY SU,
INDIVIDUALLY; and JACK WU,
INDIVIDUALLY,

S S S S S S OF CALHOUN COUNTY, TEXAS

Defendants.

S S S S S S 135TH JUDICIAL DISTRICT

MOTION TO QUASH AND ORIGINAL ANSWER OF DEFENDANTS FORMOSA
PLASTICS CORPORATION, TEXAS; FORMOSA PLASTICS CORPORATION,
AMERICA; FORMOSA PLASTICS DEVELOPMENT CORPORATION; NAN YA
PLASTICS CORPORATION, AMERICA; NAN YA PLASTICS CORPORATION,
U.S.A.; FORMOSA HYDROCARBONS COMPANY, INC.; and FORMOSA
CHEMICALS & FIBRE CORPORATION, AMERICA

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Formosa Plastics Corporation, Texas, Formosa Plastics Corporation, America, Formosa Plastics Development Corporation, Nan Ya Plastics Corporation, America, Nan Ya Plastics Corporation, U.S.A., Formosa Hydrocarbons Company, Inc., and Formosa Chemicals & Fibre Corporation, America (collectively "Defendants"), and, file this their Motion to Quash service of citation and, subject thereto, this their Original Answer in the above-captioned and numbered cause.

VOL _____
FILED PAGE _____
AT 10:08 O'CLOCK A.M.

JUL 1 1994

PAMELA MARTIN
DISTRICT CLERK, CALHOUN COUNTY, TEXAS
BY Anna Coward DEPUTY

MOTION TO QUASH AND ORIGINAL ANSWER OF DEFENDANTS BY FORMOSA PLASTICS CORPORATION, TEXAS, ET AL. -- Page 1

AUMAIN01 Doc. 25674.1

I.

Plaintiffs filed this cause on June 7, 1994. Defendants received notice of this suit on June 13, 1994, when counsel for Plaintiffs mailed to Defendants' registered agents copies of a transmittal letter to the Court dated June 7, 1994, attached to which were several preliminary motions filed by Plaintiffs.

II.

This careless manner of service of process is both improper and ineffective under the Texas Rules of Civil Procedure and must be quashed. Plaintiffs failed to serve citation or a copy of Plaintiffs' Original Petition on Defendants as required by the Texas Rules of Civil Procedure. Moreover, under Texas law, counsel for Plaintiffs are precluded from serving process on Defendants. As this manner of service of citation is wholly deficient, this Motion to Quash should be sustained as a matter of law.

III.

ORIGINAL ANSWER OF DEFENDANTS
(SUBJECT TO MOTION TO QUASH)

This Original Answer of Defendants is filed subject to and without waiving Defendants' Motion to Quash. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendants generally deny each and every allegation made by Plaintiffs and demand strict proof thereof by a preponderance of the evidence as required by law.

WHEREFORE, Defendants pray that the Court sustain this Motion to Quash and enter an order quashing service of process. Subject to Defendants' Motion to Quash, Defendants pray that Plaintiffs take nothing by reason of their claims and that Defendants

recover their costs of suit and further relief to which they may be entitled.

Respectfully submitted,

Robert T Stewart

Robert T. Stewart
State Bar No. 19218250
JONES, DAY, REAVIS & POGUE
301 Congress Avenue, Suite 1200
Austin, Texas 78701
Telephone: (512) 477-3939
Facsimile: (512) 478-9127

William F. Seerden
State Bar No. 17986000
CULLEN, CARSNER, SEERDEN
& CULLEN, L.L.P.
119 S. Main
P.O. Box 2938
Victoria, Texas 77902-2938
Telephone: (512) 573-6318
Facsimile: (512) 573-2603

Lawrence A. Dio
State Bar No. 05889000
204 South Anne Street
P.O. Box 165
Port Lavaca, Texas 77979
Telephone: (512) 552-2947
Facsimile: (512) 552-9266

ATTORNEYS FOR DEFENDANTS FORMOSA PLASTICS CORPORATION, TEXAS; FORMOSA PLASTICS CORPORATION, AMERICA; FORMOSA PLASTICS DEVELOPMENT CORPORATION; NAN YA PLASTICS CORPORATION, AMERICA; NAN YA PLASTICS CORPORATION, U.S.A.; FORMOSA HYDROCARBONS COMPANY, INC.; and FORMOSA CHEMICALS & FIBRE CORPORATION, AMERICA